

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

JOLENE LOYD, et al.,

Plaintiffs,

v.

ACE NEXT DAY, LLC

Defendant

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Case No. 08-00188-CV-W-HFS

ORDER

Before the court is defendant's unopposed motion to stay proceedings in this case. Defendant states that a stay is necessary so that the parties can resolve two outstanding issues. One issue involves the deposition of defendant's 30(b)(6) representative which apparently has not taken place, even after additional time was granted to conduct the deposition due to cancellations by defendant to produce the representative.¹ Defendant now states that a stay is necessary because the March 11, 2011, deadline to file witness and exhibit lists cannot be met because plaintiff has indicated that the 30(b)(6) deposition needs to precede the production of the lists.

It bears noting that by order dated February 15, 2011, plaintiff's second motion for an extension of time to conduct discovery and file a dispositive motion was denied without prejudice because it was an open-ended request without anticipated deadline dates. Instead, counsel were

¹The deposition was initially noticed to take place was January 18, 2011, but defendant stated that no one would appear. (Plaintiff's Motion for Extension of Time: doc. 86, ¶ 3). Although re-scheduled for February 8, 2011, it did not take place because the representative was undergoing surgery. (Id: ¶¶ 4-8).

directed to meet, confer and reach an agreement on a firm date and location for the 30(b)(6) deposition. Counsel were also directed to jointly file, within fourteen days, a renewed motion regarding new deadline dates for discovery and dispositive motions.

Instead, on February 28, 2011, defendant filed a notice of its Offer of Judgment submitted to plaintiff. Shortly after defendant filed the notice of Offer, plaintiff moved for a continuance to conduct discovery and file dispositive motions. According to plaintiff, after agreeing to produce the 30(b)(6) representative, defendant then advised that a representative would not be produced, but would provide a sworn affidavit. Plaintiff states that a continuance of pretrial deadlines is necessary so that she can review the affidavit. Defendant states that the Offer remains pending and outstanding, and a stay would afford the parties a chance to resolve it. Defendant represents that the parties agree the matter should be stayed for a period of forty-five days.

Accordingly, it is hereby

ORDERED that plaintiff's motion for continuance and a hearing (ECF doc. 89) is GRANTED in part and DENIED in part. It is further

ORDERED that defendant's motion for a stay (ECF doc. 90) is GRANTED. All proceedings in this matter will be stayed for forty-five days from the date of this order. In the event the Offer of Judgment is rejected, on or before the expiration of the stay counsel are directed to jointly file a status report which must include proposed dates for pretrial matters, i.e. discovery and dispositive motions, in preparation for trial.

/s/Howard F. Sachs

HOWARD F. SACHS

UNITED STATES DISTRICT JUDGE

March 17, 2011

Kansas City, Missouri